



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0559]

RIN 1625-AA08

Special Local Regulations; 2012 Ironman 70.3 Miami, Biscayne Bay; Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a special local regulation on the waters of Biscayne Bay, east of Bayfront Park, in Miami, Florida during the 2012 Ironman 70.3 Miami, a triathlon. The Ironman 70.3 Miami is scheduled to take place on Sunday, October 28, 2012. Approximately 2500 participants are anticipated to participate in the swim. No spectators are expected to be present during the event. The special local regulation is necessary to provide for the safety of the participants, participant vessels, and the general public on the navigable waters of the United States during the event. The special local regulation establishes an area that will encompass the event area. Non-participant persons and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the

Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 6:45 a.m. until 9:45 a.m. on October 28, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0559.

To view documents mentioned in this preamble go to

<http://www.regulations.gov>, inserting USCG-2012-0559 in the "Search" box, and click "Search." Click on the Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535-7576, e-mail [Mike.H.Wu@uscg.mil](mailto:Mike.H.Wu@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

|      |                                 |
|------|---------------------------------|
| DHS  | Department of Homeland Security |
| FR   | Federal Register                |
| NPRM | Notice of Proposed Rulemaking   |

## A. Regulatory History and Information

On July 30, 2012, we published a Notice of Proposed Rulemaking (NPRM) entitled USCG-2012-0559 in the Federal Register (77 FR 2012-18455). We received no comments on the proposed rule. No public meeting was requested, and none was held.

## B. Basis and Purpose

(a) The legal basis for this rule is the Coast Guard's authority to establish special local regulations pursuant to: 33 U.S.C. 1233.

(b) The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the Ironman 70.3 Miami.

## C. Discussion of Comments, Changes, and the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

On October 28, 2012, Miami Tri Events is sponsoring the Ironman 70.3, a triathlon. The swim portion of the event will be held on the waters of Biscayne Bay, Miami, Florida. Approximately 2500 participants are anticipated to participate in the event. No spectator vessels are expected during the event.

The temporary final rule establishes a special local regulation that will encompass certain waters of Biscayne Bay, Miami, Florida. The special local regulation will be enforced

from 6:45 a.m. until 9:45 a.m. on October 28, 2012. The special local regulation will establish an area around the event where all non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Miami via telephone at (305) 535-4472, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the event area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving

Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only 3 hours; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the event area if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not authorized by the Captain of the Port Miami or designated representative to enter, transit through, anchor in, or remain within the event area may operate in the surrounding area during the enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Biscayne Bay encompassed within the special local regulation from 6:45 a.m. until 9:45 a.m. on October 28, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## 8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

## 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.



#### 11. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). Due to potential environmental issues, we conducted an environmental analysis for both the issuance of the marine event permit and the establishment of this special local regulation. After completing the environmental analysis for the issuance of the marine event permit and the establishment of

these special local regulations, we have determined these actions will not significantly affect the human environment. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35T07-0559 to read as follows:  
§ 100.35T07-0559 Special Local Regulation; Ironman 70.3 Miami, Biscayne Bay; Miami, FL.

(a) Regulated Area. The following regulated area is a special local regulation. All waters of Biscayne Bay located east of Bayfront Park and encompassed within an imaginary line connecting the following points: starting at Point 1 in

position 25°46'44"N, 080°11'00"W; thence southeast to Point 2 in position 25°46'24"N, 080°10'44"W; thence southwest to Point 3 in position 25°46'18"N, 080°11'05"W; thence north to Point 4 in position 25°46'33"N, 080°11'05"W; thence northeast back to origin. All coordinates are North American Datum 1983.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) Regulations.

(1) Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Non-participant Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Date. This rule will be enforced from 6:45 a.m. until 9:45 a.m. on October 28, 2012.

Dated: September 28, 2012

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Chris P. Scraba

Captain, U.S. Coast Guard

Captain of the Port Miami

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